THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3353 of 2007

Dated:22.02.2007

Between:

Abbireddy Nageswara Rao.

…Petitioner

and

The Andhra Pradesh Bhoodana Yagna Board, and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3353 of 2007

ORDER:

The petitioner is a resident of Thanelanka Village, Kamini Post of Mummidivaram Mandal in East Godavari District. He claims to be a landless poor person. The first respondent assigned land admeasuring Acs.3.71 cents in Survey Nos.37/3, 37/4, 37/6 and 45/1 (hereafter called, the subject land) situated in Kamini Village by proceedings dated 28.10.1978. The petitioner is statedly cultivating the land along with his family members without any interruption. It is alleged that one Nalla Rama Rao and his son Nalla Venkateswara Rao tried to interfere with the possession of the land allegedly by creating false revenue records and adangals. Therefore, the petitioner filed O.S.No.97 of 2001 on the file of the Court of the learned Junior Civil Judge, Mummidivaram, for injunction. At that stage, those two persons filed a Tenancy case, being A.T.C.No.10 of 2001, on the file of the Court of the Special Officer-cum-Junior Civil Judge, Mummidivaram, for injunction. Initially, by order dated 19.02.2002 in I.A.No.607 of 2001, the learned Junior Civil Judge granted injunction, which was assailed by the petitioner in A.T.A.No.16 of 2002 on the file of the Court of the District Judge, Rajahmjundry. The same was allowed, against which C.R.P.No.5280 of 2002 was filed unsuccessfully. The suit filed by the petitioner and A.T.C filed by Nalla

Rama Rao and Nalla Venkateswara Rao are still pending. In the meanwhile, the first respondent issued a show cause notice dated 27.07.2001 to the petitioner calling upon him to show cause as to why allotment made in his favour should not be cancelled. The petitioner submitted explanation on 11.08.2001. Now the first respondent passed orders on 22.01.2007 canceling the assignment on the ground that he leased out the land to Nalla Rama Rao and Nalla Venkateswara Rao, that he has succeeded to land admeasuring Acs.7.00 belonging to his mother, and that he is also assignee of Government land in Survey Nos.24, 19 and 176 admeasuring Acs.3.34 cents of Thanelanka Village. Aggrieved by the proceedings of the first respondent, the present Writ Petition is filed seeking a writ of mandamus declaring the impugned proceedings as illegal and arbitrary.

Learned Counsel for the petitioner contends that in view of the pendency of the suit filed by the petitioner and A.T.C filed by Nalla Rama Rao and Nalla Venkateswara Rao, the exercise of powers by the first respondent is illegal and arbitrary. Secondly, he would submit that the non-speaking order passed by the first respondent is unsustainable, and that no enquiry was conducted before passing the impugned order.

In exercise of powers under Section 34 of the Andhra Pradesh Bhoodan and Gramdan Act, 1965 (for short 'the Act'), the Government promulgated the Andhra Pradesh Bhoodan and Gramdan Rules, 1965 (for short 'the Rules'). Rule 9 thereof contains the conditions of assignment and, *inter alia,* provides that the land assigned under the Act and the Rules is heritable but not alienable. In this case, the petitioner leased out the land to Nalla Rama Rao and Nalla Venkateswara Rao and thereby contravened the conditions of assignment. Even if this is in *lis* between the parties in the suit as well as A.T.C, the same does not have any effect on the exercise of powers by the first respondent while canceling the assignment. Secondly, as per the report of the Mandal Revenue Officer, on which reliance was placed by the first respondent, the petitioner was assignee of Government land admeasuring Acs.3.34 cents and also inherited land admeasuring Acs.7.00 from his mother. By no stretch of imagination he can be considered as landless poor person. In this regard, the submission of the learned Counsel for the petitioner that subsequent acquisition of the property by the assignee does not disentitle him for assignment cannot be accepted. When a person has already obtained assignment of land from the Government, it would not be proper for him

to claim assignment again from the Andhra Pradesh Bhoodan Yagna Board. The first respondent decided the questions of fact and correctly applied the principles of relevant law. The same is not vitiated by any illegality.

The Writ Petition is, therefore, dismissed. No costs.

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(V.V.S.RAO, J)

22.02.2007
vs